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COMMITTEE AGAINST TORTURE

Seventh session

SUMMARY RECORD OF THE 99th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 November 1991, at 10 a.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Initial report of Bulgaria (CAT/C/5/Add.28) (continued)

1. At the invitation of the Chairman, Mr. Djambazov and Mr. V. Dobrev (Bulgaria) took places at the Committee table.

2. The CHAIRMAN reminded the Committee that it had not been able to hear all the replies of the representative of Bulgaria the previous day, due to lack of time. He invited the representative of Bulgaria to continue his statement.

3. Mr. DJAMBAZOV (Bulgaria) said a question had been asked about the respective roles of the Department of Public Prosecutions and the courts in the administration of justice. Preliminary investigations were the responsibility of the Department of Public Prosecutions, but, once a case had been brought, it would be in the hands of the courts and, ultimately, of the Supreme Court. Another question had related to the supervision of prisons by the Department of Public Prosecutions. Administratively, prisons were under the control of the Ministry of Justice; the role of the Department of Public Prosecutions was to supervise the way in which the law was enforced in those prisons.

4. One member of the Committee had asked what was meant by the statement in paragraph 55 of the report that "... the necessary administrative measures are taken to ensure that in practice ... torture is not used". Such measures would be, first, disciplinary and, secondly, and more importantly, educational, with a view to ensuring that prison officials and staff were made aware of their obligations.

5. In reply to questions concerning the implementation of articles 3 and 4 of the Convention, he again pointed out that those articles had now been made directly applicable in Bulgarian legislation. As to the point raised concerning the reference in paragraph 62 of the report to article 287 of the Penal Code, that article referred solely to crimes committed by judicial officials.

6. In reply to the question on how articles 8 and 9 of the Convention were being implemented, Bulgaria had had no difficulties in that connection, particularly since the adoption of its new Constitution. Even before that, however, mutual judicial assistance had already been practised on a very wide scale with a number of other European countries, even where no formal extradition treaties existed. For instance, earlier that year, a five-man team of police officers from Italy had visited Bulgaria to make certain investigations, despite the fact that no agreement with Italy regarding mutual assistance had been concluded. Similar arrangements with Germany, Greece and France had been in operation for a number of years.

7. With regard to paragraph 82 of the report, there had perhaps been an omission. There was in fact quite an extensive training programme in that connection for police officers and personnel at all levels.

8. One member had asked whether there had been any cases of torture in recent years in Bulgaria and what measures had been taken to deal with them. Even before the 1989 reforms, a few cases of that kind had been brought, mainly against police officers: in one such case, in Botograd, near Sofia, two policemen had been sentenced to three years' imprisonment. After 1989, quite a few prosecutions had been brought for acts of torture committed in past years. Happily, no such cases had occurred since 1989.

9. He requested that his statement, as well as Bulgaria's new Constitution, its Penal Code and Code of Criminal Procedure, the texts of which had been provided, should be taken into account by the Committee when it prepared its report.

10. Mr. KHITRIN (Country Rapporteur) thanked the Bulgarian representative for his full and frank answers to the questions that had been raised. He suggested that the Committee might draw the following conclusions: first, it should take note of the radical reforms and far-reaching changes now being brought about in the country; secondly, it should propose that Bulgaria should speed up the process of introducing new domestic legislation, both in the Code of Criminal Procedure and elsewhere; and thirdly, it should take note of the initial report and express the hope that the comments and suggestions made by the members of the Committee would be reflected in the first periodic report due in 1993.

11. Ms. CHANET (Alternate Country Rapporteur) said she too wished to thank the Bulgarian representative for an excellent report and for the useful oral statement which had supplemented it. She fully supported the conclusions suggested by Mr. Khitrin, and, in particular, the recommendation that the members of the Bulgarian delegation should be asked to convey to their country's authorities a specific request that legislative reforms should be speeded up so that, by the time the next report was submitted, there would be some concrete results to show.

12. The CHAIRMAN said he assumed that the statements just made by the country rapporteur and alternate country rapporteur could be taken as the Committee's conclusions.

13. It was so decided.

14. Mr. DJAMBAZOV (Bulgaria) said he appreciated the very detailed and helpful discussion the Committee had had on his country's initial report. Bulgaria was the only Eastern European country which already had a new Constitution and many new laws, including some covering the offence of torture. It was also the only country in that region to have held elections recognized as free and democratic not only by Bulgarians themselves, but also by experts and observers from many countries and international organizations. That augured well not only for the implementation of the provisions of the Convention, but also for rapid progress towards democracy.

15. It had been a pleasure and a useful exercise for his delegation to participate in the Committee's discussions. He was sure that that exercise would help Bulgaria in its efforts to modernize its legislation and to bring

it into line with the legislation of other modern democratic States. Bulgaria needed the Committee's support and he was sure that there would be other ways in which it could cooperate with it in future.

16. The CHAIRMAN said that the comments and suggestions made would be reflected in the Committee's report: he hoped that Bulgaria's first periodic report, which would shortly become due, would take them into account. He thanked the Bulgarian delegation for the very full information it had provided, which clearly showed that the country was now on the right path, and wished it every success for the future.

17. Mr. Djambazov and Mr. Dobrev (Bulgaria) withdrew.

The meeting was suspended at 10.25 a.m. and resumed at 10.35 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

18. The CHAIRMAN suggested that the Committee should continue its exchange of views on preparations for the World Conference on Human Rights. The previous day, it had been proposed that some instructions should be given to Mr. Sorensen and Mr. Mikhailov, who would be the Committee's representatives at that Conference. The Committee might also submit a written recommendation to the Conference along the lines of those already prepared by three other committees, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child.

19. Mr. GIL LAVEDRA noted that the Human Rights Committee had recommended to the Conference that a specific item concerning the activities of human rights treaty bodies should be included on its agenda and that representatives of those bodies should be invited to participate; those recommendations were particularly relevant. He supported the suggestion made the previous day by Ms. Chanet that such participants should not be merely observers, but should have the right to express their views.

20. As far as the Committee's own contribution was concerned, he believed that it should encourage as many States as possible to ratify the Convention. It was also very important that more States parties should be encouraged to make the declarations provided for under articles 21 and 22 of the Convention: at present, fewer than half the signatories had done so, and that meant that only a very limited number of States recognized the Committee's jurisdiction. If more States were persuaded to make the declarations, the scope of the Committee's activities would be widened and the Convention made more effective.

21. In general, the Committee should give its representatives at the Conference a fairly broad mandate so that they could intervene effectively when matters of interest to it were discussed.

22. Ms. CHANET said that, while it was right that States should be urged to ratify the Convention and to withdraw the reservations they had made, it was just as important to ensure that ratifications purely for the sake of form were avoided, particularly in the case of the Convention against Torture. Recently, one State party had made much of the fact that it had ratified the

Convention, but its report had revealed that, in practice, it was doing very little to implement it. The Committee should not simply express pious hopes that more States should ratify the Convention: it should demand that States which had done so should fulfil their obligations to bring their domestic legislation into line with its requirements. Specifically, the Committee could suggest that the programme of advisory services could play a very useful role by assisting States to meet their responsibilities in that regard.

23. Mr. SORENSEN suggested that the Committee's recommendation to the Conference might be along the following lines: "The Committee, noting that torture is, in its view, the most cruel violation of human rights in existence and noting also that torture is currently widespread throughout the world, supports the six objectives of the Conference".

24. He agreed with the suggestions made by Ms. Chanet. In addition, the Committee might recommend that consideration should be given to setting up some form of human rights mechanism within the United Nations which could act immediately and forcefully when human rights were violated. That mechanism would also be a centre for documentation, education and research in human rights matters. The Committee should ensure that the Conference was made aware of the prevalence of torture, of its purposes and of the methods used, with particular reference to the role played by doctors and to the issues of medical ethics that thus arose. While there had been much debate over how various kinds of human rights should be defined, there could be no debate over the threat to human rights posed by torture.

25. The Committee might also declare that torture played a crucial role in sustaining dictatorships, was a threat to democracy and should be eradicated.

26. Mr. BURNS pointed out that the forthcoming Conference was to be one of the largest of its kind ever held and would attract great interest on the part of the press. He suggested that some kind of audiovisual demonstration of torture and its effects should be prepared for showing at the Conference.

27. Mr. SORENSEN said that he supported that suggestion. Such a demonstration could not fail to make a strong impact.

28. Mr. GIL LAVEDRA said that he endorsed the suggestions by Ms. Chanet. With regard to Mr. Sorensen's comments, he took the view that, while the rights to life and integrity were certainly fundamental, the concepts of the interrelationship of human rights and of the social and economic situation of each State also had to be taken into account. The protection of one category of human rights did not rule out the consideration of other categories. A theoretical discussion of that kind was, however, not one of the Committee's main concerns.

29. Ms. CHANET said she had meant that compartmentalization had to be avoided when considering the different aspects of human rights. The World Conference would be an opportunity to obtain an overview of the subject.

30. Mr. SORENSEN said that, regardless of opinions on or the amount of importance attached to human rights, it was generally agreed that torture was prohibited. The Committee should therefore not become involved in a theoretical discussion of the matter.

31. Mr. GIL LAVEDRA said that the Committee would not have to draft a formal written report on its discussion of the World Conference as its recommendations were general and the relevant summary record would provide adequate guidance for the rapporteurs.

32. Mr. SORENSEN said he agreed with Mr. Gil Lavedra and suggested that, in the letter informing the Chairman of the Preparatory Committee for the World Conference that he would be replacing Ms. Chanet as the representative of the Committee on Torture, it might be indicated that the matter had been discussed and that reference could be made to the relevant summary record.

33. Ms. CHANET said that matters were still at the Preparatory Committee stage and that, if a written report was to be prepared, it might be better for it to be submitted to the World Conference itself.

34. Mrs. KLEIN (Representative of the Secretary-General) informed the Committee that the second session of the Preparatory Committee would be discussing the provisional agenda and the studies to be prepared for the World Conference.

35. The CHAIRMAN said he took it that the Committee agreed that its discussion as reflected in the summary record of the meeting should serve to guide the rapporteurs in their work.

36. It was so decided.

37. The CHAIRMAN invited the members to report on recent meetings of United Nations and other human rights bodies which were relevant to the Committee's work.

Report on the Human Rights Committee

38. Ms. CHANET said that, at its forty-third session from 22 October to 8 November 1991, the Human Rights Committee had established two working groups, one to prepare lists of issues to be taken up in connection with State party reports and to consider matters under article 40 of the International Covenant on Civil and Political Rights, and one to consider the large number of communications received by the Committee. The Human Rights Committee had considered the periodic reports of Austria, Ecuador, Iraq, Morocco and Poland, the last of which had been particularly interesting in view of the transition and restructuring phase Poland was going through.

39. The Human Rights Committee had introduced a system by which a list of issues was prepared by the secretariat and reviewed by a member of the Committee for approval by the relevant working group and submission to the Committee. During its review of its working methods, it had been suggested that, in the interests of efficiency, issues should be grouped by subject. The Human Rights Committee had still not established a system of country

rapporteurs and final conclusions, as the Committee against Torture had done, but it intended to look more closely into the working methods adopted by other bodies.

40. The Human Rights Committee had considered some 20 communications, of which those concerning Colombia might be of particular interest to the members of the Committee against Torture. It had also adopted general comments on articles 7 and 10 of the Covenant. Those on article 7 related to torture and would therefore be of direct concern to the Committee. For example, the Covenant did not contain a definition of torture, but, in the general comment on article 7, torture was taken to have a very broad meaning which went beyond the definition contained in the Convention against Torture, since reference was also made to torture committed by private individuals.

Report on the Committee on the Elimination of Discrimination against Women (CEDAW)

41. The CHAIRMAN said that the Convention on the Elimination of All Forms of Discrimination against Women had been in force for over 10 years. One hundred and three States parties had acceded to the Convention and the Committee on the Elimination of Discrimination against Women (CEDAW), which had been set up 10 years previously had 23 members and a bureau of 5 members. It held one session a year, and at its tenth session from 21 January to 1 February 1991, it had considered 10 reports. CEDAW met alternately in Vienna, the headquarters of its secretariat, and in New York. CEDAW had at one time complained of being isolated and not well served by its secretariat in Vienna. It had expressed a desire to come to Geneva, where it would have had the excellent assistance of the Centre for Human Rights, but the situation seemed to have improved and the idea had therefore been abandoned for the time being.

42. In its reports, CEDAW indicated the names of the members who had attended all or part of the sessions and on which days they had been present or absent.

43. A five-member pre-sessional working group met during the week preceding CEDAW's sessions to make preparations for the sessions and, in particular, to decide on the questions to be put to the States parties whose reports were to be considered.

44. At its most recent session, CEDAW had set up two working groups with 10 and 12 members, respectively, to review working methods and article 21 of the Convention on the Elimination of All Forms of Discrimination against Women relating to general recommendations.

45. At each of its sessions, CEDAW had decided to study one or two articles of the Convention on the Elimination of All Forms of Discrimination against Women to provide a basis for interpretation for its future work. CEDAW had also decided that each member would have three minutes in which to put questions to a State party.

46. CEDAW had appointed members to liaise with other committees, including the Committee against Torture. It did not have a country rapporteur system and its general conclusions were arrived at after each member had spoken on the report under consideration.

47. CEDAW had considered 10 reports at its last session and had also decided that, at its forthcoming session in January 1992, it would discuss its contribution to the World Conference on Human Rights. It had adopted three general recommendations to be brought to the attention of States parties: a recommendation on unpaid women workers in rural and urban family enterprises; a recommendation on measurement and quantification of the unremunerated domestic activities of women and their recognition in the gross national product; and a recommendation on disabled women.

Report on the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe

48. Mr. SORENSEN said that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe had been established two years previously. All 23 member States of the Council of Europe had ratified the European Convention for the Prevention of Torture; Hungary and Czechoslovakia, two new member States, were in process of ratifying it; and Poland and the Baltic States would join the Council of Europe shortly and also intended to ratify the Convention.

49. CPT was composed of one person from each member State who did not represent, but was nominated by, the country concerned.

50. Members had to have the necessary competence and to be of high moral standing and they had to be available. He himself had spent 110 days abroad working for CPT. The present members of CPT were professors of law, a judge, prison officers, a psychologist and four doctors.

51. CPT was run by a bureau with a chairman and two vice-chairmen. It sent delegations composed of four or five members and one or two experts, with interpreters, to member countries. The languages of CPT were English and French and, if necessary, the members could dispense with the translation of documents.

52. The visit of a delegation to a large country lasted two weeks, during which the members of the delegation spoke with ministers and then went on a fact-finding mission to police stations, prisons, psychiatric institutions, military barracks, refugee camps and so on. Delegations were allowed to visit any establishment of their choice.

53. Following the visit, the delegation made a confidential report to the State party with any necessary suggestions and recommendations and then held discussions with the State party on how the delegation's recommendations could be implemented. It was left to the discretion of the State party concerned whether or not to publish the delegation's report, with or without the State party's comments. The report on a one-day visit might be as long

as 75 pages. A delegation spent an average of 21 days on the drafting of its report on a large country. The report was then discussed by CPT in plenary for about eight hours.

54. By the end of 1991, CPT delegations would have visited 12 countries, including all the large States parties, with the exception of Italy, which would be visited in 1992. The decision as to which country would be visited was taken by drawing lots.

55. After CPT had decided to visit a country, the State party was informed and the decison made public a week later. Feedback was then received from non-governmental organizations. The country was notified of the dates of the delegation's visit two weeks beforehand and given the names of the persons whom it wished to meet. Two days before the visit, the delegation informed the authorities of the names of the prisons it wished to visit; the delegation also visited establishments that it had not designated in advance.

56. Mr. GIL LAVEDRA asked whether the delegation decided beforehand on the places it was to visit or whether it did so once it was in the country concerned. Did the State party suggest an itinerary?

57. Mr. SORENSEN said that the programme was decided by CPT alone over a period of some months. CPT itself decided which places it wished the delegation to visit and, if the delegation received further specific information once it was in the country, it would then visit the establishment in question. Its findings were confidential, but it was well known that torture usually took place in police stations and ill-treatment in prisons. Persons who were tortured were removed from police stations to prisons, where the delegation was able to follow them.

58. Mr. GIL LAVEDRA asked whether there was any publicity about the delegation's visit so that individuals could come forward to make allegations.

59. Mr. SORENSEN replied that CPT could not receive individual communications, since there was no equivalent in the European Convention for the Prevention of Torture of article 22 of the United Nations Convention against Torture.

60. In reply to a question by the CHAIRMAN, he said that CPT delegations carried out announced as well as unannounced visits. However, even when visits were announced beforehand, it was hard for a State party to disguise conditions in prisons. Matters were very different in police stations, but the registers could be consulted even if the cells were empty and the delegation could then trace detainees to the prisons where they were being held. That method was generally effective in ensuring compliance with the European Convention.

61. Mr. DIPANDA MOUELLE said that he wished to know whether CPT informed the State party of its findings before leaving the country.

62. Mr. SORENSEN said that a full report on the findings could be made by CPT only in plenary, but the delegation always held a meeting with the ministers concerned before it left a country in order to give its first impressions and inform the authorities of any urgent action that might need to be taken.

The meeting was suspended at 11.50 a.m. and resumed at 12.05 p.m.

63. The CHAIRMAN said that the Committee considered reports in great detail, primarily on account of its decision to appoint country rapporteurs and alternate country rapporteurs, and that it would be difficult for it to consider two reports in one day. He nevertheless suggested that the secretariat should be requested to make arrangements so that three reports could be considered over a period of two days. That suggestion should not involve any change in the Committee's methods of dealing with initial and periodic reports, but it would mean that one delegation would be required to stay in Geneva for two days in order to answer questions on its report.

64. With regard to Uruguay's replies to the Committee's questions concerning its initial report, he recalled that the report had been considered the previous Friday and that the replies would be given only on the following Thursday. Mr. Dipanda Mouelle had said that, in his view, Uruguay was being privileged by being allowed almost a week to prepare its replies, whereas most delegations submitted their replies to the Committee's question on the afternoon following the consideration of their report, and had questioned the wisdom of the Committee's decision to allow Uruguay so much time for its replies.

65. Ms. CHANET said that she agreed with Mr. Dipanda Mouelle. She feared that the Committee might be setting a precedent and that countries would take advantage of the opportunity not to send a delegation from their capital, even if the complexity of the issues covered by their report would make it difficult for the introduction to be made by members of their permanent mission in Geneva.

66. Mr. GIL LAVEDRA said that he shared Ms. Chanet's concern. It might also be diffciult for a delegation composed exclusively of members of a country's permanent mission to answer all the Committee's questions and that was probably why the Uruguayan delegation had asked for several days to prepare its replies and consult with its Government. To avoid setting an unfortunate precedent, he suggested that the Committee might inform the Uruguayan delegation that, in view of many complex questions asked by the Committee, Uruguay could submit its replies at the next session, perhaps in the form of an additional report.

67. Mr. MIKHAILOV said that, in his view, Uruguay had been given preferential treatment. Delegations were often not composed of jurists and that could give rise to problems. He suggested that States parties should be informed that the delegation responsible for submitting their report to the Committee should be composed of persons specialized in the field covered by the Convention.

68. The CHAIRMAN said that it should be enough to remind States parties of the requirements of rule 66 of the Committee's rules of procedure, which

specified that a State party's representative "should be able to answer questions which may be put to him by the Committee and make statements on reports already submitted by his State ...".

69. Mr. SORENSEN said that he had some misgivings about Mr. Gil Lavedra's suggestion, which might set an equally dangerous precedent by allowing States to provide their replies at a later session. As far as he could recall, Uruguay had been allowed to provide its replies on the following Thursday, because that had been the only time available.

70. Mr. BURNS said that Uruguay had requested additional time to prepare its replies and that the Committee had been wrong to accede to its request. The Committee should, however, assume responsibility for its error of judgement and allow Uruguay to provide its replies on the agreed date.

71. Mr. KHITRIN said that he endorsed Mr. Gil Lavedra's suggestions and noted that the Committee could not have made a very favourable impression on the Uruguayan delegation. Since Uruguay was unlikely to be able to answer all the questions put to it by the Committee, it might be better to ask it to submit additional information at the Committee's next session.

72. The CHAIRMAN said he realized that the Committee had been wrong to allow Uruguay a week to prepare its replies and he assumed responsibility for that mistake. In future, the Committee should be very strict and draw the attention of countries to the requirements of rule 66 of the rules of procedure. Otherwise, the preocess of the consideration of reports and the submission of replies might go on longer and longer.

73. Mr. GIL LAVEDRA said that the Uruguayan delegation had not orally introduced the report. It had been asked a great many legal and factual questions and had said that it could not answer them that afternoon and would need time for consultations with its Government. It had informed the Committee that it would make every effort to have its replies ready the following Thursday. In his view, an error had not yet been committed and no precedent had been established. The secretariat could contact the Uruguayan mission and inform it that, in view of the nature of the information requested by the Committee, Uruguay could submit its replies at the Committee's next session. There was no guarantee that the replies Uruguay would be able to provide on the following Thursday would be complete and the Committee might require additional information in any case.

74. The CHAIRMAN said that he did not want the Committee to go back on a decision it had already taken. The Committee should hear the Uruguayan delegationn on the following Thursday, as agreed, and take steps to ensure that, in future, countries were fully aware of the requirements laid down in the rules of procedure concerning countries' representatives.

75. Mr. SORENSEN said he was still not convinced that the Committee had not set a precedent, as the Chairman's suggestion relating to the consideration of three reports in two days would mean that, in future, countries would have more time to prepare their replies to the Committee's questions.

76. Mr. DIPANDA MOUELLE said that he shared Mr. Gil Lavedra's concern and understood the purpose of his suggestion. The Committee could ask whether the Uruguayan delegation had received the necessary replies from its Government and, if it had not, Uruguay could be invited to submit an additional report the following year. If the replies had been received, the Committee could hear them as planned.

77. Ms. CHANET said that the Committee should abide by its decision and hear the delegation as planned. However, it should make it clear that it was not setting a precedent. She clearly remembered that Uruguay was providing its replies on the following Thursday not because of scheduling requirements, but because the delegation had been unable to prepare them for an earlier date.

78. The CHAIRMAN said that it was his understanding that most, if not all members of the Committee wished to hear the replies of the Uruguayan delegation on the following Thursday. The Committee admitted that it had been wrong to give Uruguay so much time to prepare its replies and would not make that mistake again in future. He would request the secretariat to remind States parties of the requirements of rule 66 of the rules of procedure.

79. He informed the Committee that three members, Ms. Chanet, Ms. Diaz Palacios and Mr. Perlas, had decided not to stand for re-election and that three new members would have to be nominated. Mr. Perlas had expressed regret that, when he had joined the Committee, he had not been given enough information on his responsibilities and he had prepared a document describing the information that would have been useful to him at that time. The secretariat would therefore be requested to provide the new members with information not only on what was expected of them as members of the Committee, but also on practical details relating to their functions.

The meeting rose at 12.35 p.m.